

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES, et al.,)	
)	
Plaintiffs,)	
v.)	No. 1:23-cv-00108-LMB-JFA
)	
GOOGLE LLC,)	
)	
Defendant.)	

ORDER

For the reasons stated in open Court and summarized below, Plaintiffs’ Rule 72 objections to the Magistrate Judge’s April 19, 2024 Order [Dkt. No. 622] are SUSTAINED IN PART and OVERRULED IN PART.

On May 31, the Court held oral argument concerning Plaintiffs’ objections to the Magistrate Judge’s April 19 Order.

After hearing arguments from both sides, and directly following Plaintiffs’ oral argument discussing the relief that Plaintiffs sought, the Court issued the following oral ruling, telling Plaintiffs:

Any of the witnesses whom the defendant is planning to list for whom they conducted a deposition in the Texas litigation, you’re going to have a right to have that transcript made available to you so that you can use that transcript solely for impeachment of that witness. That is the way in which I understood your motion to be, and I think that is what is appropriate.

Dkt. No. 696, May 31, 2024, Hrg. Tr. at 13:25-14:6.

While Plaintiffs’ counsel indicated that counsel “underst[ood] that ruling,” Hrg. Tr. at 14:7, upon Plaintiffs’ questioning of that ruling, the Court further articulated its justification for the ruling as follows:

And it evens the playing field, because, as Google [h]as complained, the government has been investigating this case for a significant amount of time, and

has, itself, developed a whole lot of evidence or information which Google is complaining it will not have fair access to. So maybe each side is slightly hamstrung, but that evens it out.

Hrg. Tr. at 14:14-20.

The court then instructed the parties to “jointly draft the order consistent with what I’ve just said in court.” Hrg. Tr. at 14:23-14:24.

Accordingly, it is hereby:

ORDERED that for any witness appearing on Defendant Google LLC’s Witness List filed on June 28, 2024, for whom a deposition was taken in *The State of Texas, et al. v. Google LLC*, No. 4:20-cv-00957-SDJ (E.D. Tex.), Google will make available to Plaintiffs the Texas Case deposition transcript for use solely for impeachment of that witness; and it is further

ORDERED that, notwithstanding any provision of the Coordination Order [Dkt. No. 251], materials provided pursuant to this Order shall not be shared by Plaintiffs with any parties or counsel for parties in *In re Google Digital Advertising Antitrust Litigation*, No. 21-md-03010-PKC (S.D.N.Y.).

The Clerk is directed to forward copies of this Order to counsel of record.

Entered this _____ day of June 2024.

Alexandria, Virginia

Leonie M. Brinkema
United States District Judge